



## Appeal Decision

Site visit made on 1 December 2021

by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 February 2022

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### Appeal Ref: **APP/A1720/W/21/3271214**

### **84 Fareham Park Road, Fareham PO15 6LW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr T Ware (T Ware Developments Ltd) against the decision of Fareham Borough Council.
  - The application Ref P/18/0363/OA, dated 5 April 2018, was refused by notice dated 18 December 2020.
  - The development proposed is residential development of up to 28 units including the provision of 8 affordable homes, along with parking, landscaping and access road.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published after the determination of the planning application. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had the opportunity to comment on this matter as part of the appeal process, and I have had regard to the revised Framework in determining this appeal.
3. The application as originally submitted was for a residential development comprising up to 38 dwellings, including the provision of 15 residential units. This was amended during the course of the planning application and revised plans were submitted for a scheme of up to 28 units, including the provision of 8 affordable homes. I have adopted the description included on the appeal form, which reflects the amended scheme as considered by the Council.
4. The application was submitted in outline. The application form indicates that approval is only sought for access. Appearance, landscaping, layout and scale are reserved for subsequent determination. I have had regard to the drawings showing the proposed layout of the scheme only insofar as they indicate how the site could be developed.
5. The appellant has submitted a Planning Obligation by Unilateral Undertaking (UU), signed and dated 12 October 2021, pursuant to Section 106 of the Town and Country Planning Act 1990, which would take effect should planning permission be granted. A Supplemental Agreement between the appellant and the Hampshire and Isle of Wight Wildlife Trust, signed and dated

14 October 2021 was also submitted during the course of the appeal. I shall return to these obligations later in this decision.

6. The Council's submissions have referred to the preparation of a new Local Plan to replace the Core Strategy<sup>1</sup> (CS) and the Local Plan Part 2: Development Sites and Policies<sup>2</sup> (LPP2). Although the Council says that the emerging Local Plan (eLP) has reached an advanced stage of preparation, it has yet to be found sound. Limited weight can therefore be afforded to the eLP.
7. The effects of introducing residential development onto the site have already been considered as part of a previous appeal<sup>3</sup>, which was dismissed. Although this was in respect of a different scheme and planning policy changes have taken place since the decision was issued, it is nevertheless an important material consideration, which I have had regard to for the determination of this appeal.

### **Main Issues**

8. The main issues are:
  - Whether the proposal would accord with the Council's adopted strategy for the location of residential development; and
  - The effect of the proposal on the character and appearance of the area and the Meon Strategic Gap.

### **Reasons**

#### *Strategy for the location of residential development*

9. CS Policies CS2 and CS6 set out the Housing and Development Strategies for the area administered by the Council. These policies seek to prioritise the reuse of previously developed land and focus development within the defined urban settlement boundaries and through strategic allocations. The appeal site is located outside the defined urban settlement boundaries and therefore lies, for planning policy purposes, in the countryside. The appeal site also lies within a Strategic Gap, which is treated as countryside.
10. In the countryside, CS Policy CS14 adopts a strict approach to new proposals, to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function. Similarly, Policy DSP6 of the LPP2 sets out a presumption against new residential development outside the defined urban settlement boundaries, which is only permissible in restrictive circumstances. As the appeal scheme does not meet any of these exceptions, the proposal would conflict with the Council's housing and spatial strategies, having regard to its relationship with CS Policies CS2, CS6 and CS14, and Policy DSP 6 of the LPP2.
11. However, in circumstances where the Council is unable to demonstrate a five-year supply of land for housing, which is currently the case, against the requirements of the CS, Policy DSP40 of the LPP2 states that additional housing may be permitted outside the urban area boundary, subject to a number of criteria being met. I do not have any reason to disagree with the Council that a

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<sup>1</sup> Adopted August 2011.

<sup>2</sup> Adopted June 2015.

<sup>3</sup> APP/A1720/A/13/2203892.

number of those criteria would be met, but compliance with Policy DSP40 is also subject to the requirement that the proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps. These are among the considerations, which I am turning to now.

### *Character and appearance*

12. Located on the edge of the settlement, the appeal site is made up of previously developed land currently in use as a caravan storage facility and otherwise comprises a large field. Whilst the caravan storage has a somewhat unkempt appearance, there is no doubt that the undeveloped appearance of the field, with its gentle slope towards the adjacent woodland area, makes a very pleasant and important contribution to the open and spacious character of its surroundings. It also holds value in providing a rural setting to the settlement of Fareham.
13. The appeal site is located in the Meon Valley, which the Fareham Landscape Assessment (2017) divides into two Local Landscape Character Areas (LLCA). The site lies within an area of mixed farmland and woodland, on the edge of the urban area. It forms part of the Upper Meon Valley LLCA, which is identified as an area of high overall sensitivity, where development potential is highly constrained, and any significant development is likely to have unacceptable impacts upon one or more of its attributes. A subsequent assessment<sup>4</sup> forming part of the evidence base for the eLP references the Meon Valley, which the appeal site forms part of, as an Area of Special Landscape Quality (ASLQ).
14. Having regard to the presented evidence and my own observations, it is clear that the Upper Meon Valley, of which the site is an integral part has to be regarded as a valued landscape for the purposes of paragraph 174 of the Framework. Despite being located on the edge of the settlement, I am of the view that the site shares some of the identified characteristics, notably in respect of the nature of the rural landscape and its topography. As a result, the site makes an important contribution to the Upper Meon Valley and therefore has to be regarded as an integral part of this valued landscape.
15. The appellant's Landscape and Visual Impact Assessment (LVIA) found that the development of the site would have moderate adverse landscape effects on the Meon Gap and Meon Valley LCA and moderate/minor adverse visual effects, which would be restricted to the site's immediate surroundings. The adverse effects would be greater during the winter months when trees are not in leaf.
16. The retention of landscaping features along the site's boundaries and additional planting would to some extent assist with softening the development in visual terms, although a full assessment of the impact of the proposed scheme cannot be carried out at this outline stage. That said, and having regard to the quantum of development proposed, the appeal scheme would inherently introduce significant change in what essentially remains an undeveloped, open field, and extend considerably into the countryside. In particular, the permanent, adverse effect resulting from the development would occur on a much larger area, compared with the harm caused by the caravan storage use.

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<sup>4</sup> Technical Review of Areas of Special Landscape Quality and Strategic Gaps (22 September 2020).

17. The construction of up to 28 dwellings and domestic gardens, together with the extensive areas of hardstanding required for the provision of access and parking, would constitute an urbanising form of development which would extend the settlement further into the countryside. As a result, the development would erode the spacious and open nature of the site and greatly diminish its contribution to the character of its surroundings, which would be evident from various viewpoints, including nearby properties and public rights of way. The adverse visual and landscape effects on the character and appearance of the area would be significant and would not be minimised by the proposed mitigation measures, having regard to the requirements of Policy DSP40 of the LPP2.
18. The site also lies within the Meon Strategic Gap, a spatial tool which plays an important function in maintaining the separation and individual identity of the urban areas within and surrounding the valley. However, given the relatively modest size of the development relative to the overall scale of the Strategic Gap, but also its location on the outer edge of the settlement, the effect on the integrity of the Meon Gap and the physical and visual separation of settlements would not be significant to the extent that it would warrant refusal on this sole basis. Overall, I therefore find no conflict with CS Policy CS22, which seeks to restrict development proposals in Strategic Gaps.
19. Whilst the effect of the development on the integrity of the Meon Strategic Gap would not be significant, it is my view that the proposal would nevertheless cause unacceptable harm to the landscape character and appearance of the area and fail to minimise the adverse impact on the countryside. Consequently, it would fail to accord with CS Policies CS14 and CS17, as well as Policy DSP40(iii) of the LPP2.

## **Other Matters**

### *Planning Obligations*

20. As noted above, the appellant has submitted a UU in support of the appeal, which would secure a Countryside Access Contribution towards the enhancement of Fareham Bridleways 82 and 83b and highway signage to improve the safety of public rights of way users. Additionally, the UU includes a School Travel Plan contribution, as there would be additional pupils travelling to the local catchment school. Measures to mitigate the effects of the development on the Solent Coastal Special Protection Areas (SPAs) are discussed in the following subsection.
21. The UU would also secure the provision of 8 affordable housing units comprising six social renter three-bedroom houses and two three-bedroom units as intermediate housing. Whilst this would not meet the 40% affordable housing requirement set out by CS Policy CS18, I understand that the appellant has engaged a Registered Provider, and the proposed arrangement would reflect a more favourable tenure split to meet the locally identified housing need in the area, which is accepted by the Council.
22. I have had regard to the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 (as amended), as well as national policy and guidance on the use of planning obligations. Overall, and having regard to the available evidence, I am satisfied that these obligations are necessary to make the development acceptable in planning terms, directly related to the

development, and fairly and reasonably related in scale and kind to the development.

#### *Solent Coastal Special Protection Areas*

23. The site lies within proximity to the Solent Coastal SPAs, which are recognised under the Habitats Regulations as being of international importance for supporting significant numbers of overwintering bird species. The Council considers that the proposed development would have a likely significant effect on the integrity of these sensitive areas (either individually or in combination with other plans or projects) notably by reason of additional recreational pressures on the Solent coastline associated with residential development, unless suitable mitigation is provided. In accordance with the approach taken through the Solent Recreation Mitigation Strategy, residential development proposals are required to make a financial contribution towards mitigation measures. These are normally secured through the completion of a planning obligation.
24. The Council has also raised concerns regarding the high levels of nitrogen and phosphorous which have been found in parts of the Solent water environment, notably as a result of increased amounts of wastewater from additional dwellings. This is causing eutrophication in this sensitive water environment, which could have a likely significant effect on the protected sites. As detailed within the Council's submissions, this issue may notably be addressed by ensuring that the proposed development achieves nutrient neutrality.
25. As the appeal is being dismissed on other substantive grounds, this is not a matter which I need to address in any further detail. However, had the development been considered acceptable in all other respects, I would have sought to undertake an Appropriate Assessment, to ensure the proposal's compliance with Habitats Regulations.

#### *Representations made by interested parties*

26. Other concerns have been raised by a number of interested parties, notably in respect of highway impacts, which I have noted. However, no objection was raised by the Highway Authority and there are no reasons for me to reach an alternative view.

#### **Planning Balance**

27. For the reasons detailed above, the appeal scheme would conflict with the Council's spatial strategy for the location of housing and, by extending residential development further into the countryside, would cause unacceptable harm to the landscape character, appearance and function of the area. Accordingly, it would fail to accord with CS Policies CS2, CS6, CS14 and CS17, as well as Policies DSP1, DSP6 and DSP40(iii) of the LPP2.
28. With regard to the Council's adopted housing strategy, my attention has been drawn to a number of appeal decisions, where it was found that CS Policy CS2 did not represent an assessment of housing needs which complies with the Framework. The housing requirement has not been reviewed in the last five years, and applying the Standard Method generates a higher housing need figure which does not appear to be strictly met by these policies.

29. It follows that CS Policies CS2 and CS6 have to be regarded as out-of-date, and the conflicts which I have identified with CS Policy CS14, but also Policy DSP6 of the LPP2, have to be afforded reduced weight. This is by reason of their restrictive approach in respect of development proposals outside settlement boundaries, which reflect out-of-date housing requirements.
30. As noted above, the Council is presently unable to demonstrate a five-year supply of deliverable housing sites. However, the main parties disagree regarding the extent of the shortfall. The evidence presented by the appellant and the Council indicates that the supply lies in the range of 0.93 years to 4.2 years. The appellant has drawn my attention to a Statement of Common Ground on Five Year Housing Land supply in the context of a different appeal, which would suggest that the Council's position has been reduced to 3.57 years. Whichever is correct, there is no doubt that the extent of the shortfall is substantial.
31. In such circumstances, paragraph 11d) of the Framework, as directed by Footnote 8, indicates that the policies which are most important for determining the application have to be considered out-of-date. It adds that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
32. Given the magnitude of the harm which I have identified regarding the effect on the character and appearance of the area, the conflict with the design aspirations of Policy CS17 is afforded substantial weight. Policy DSP40 reflects the aims of the Framework, in that it provides a mechanism to address housing land supply issues, whilst minimising any adverse impact on the countryside and emphasising the importance of high quality design. I ascribe very significant weight to the conflict which has been found with Policy DSP40. Similarly, the conflict with Policy DSP1 of the LPP2, which sets out a presumption in favour of sustainable development mirroring that of the Framework, has to be afforded significant weight. Overall, the conflicts with the development plan that I have identified are of such importance that the appeal scheme should be regarded as being in conflict with the development plan taken as a whole.
33. A number of economic benefits would be derived from the proposal, firstly during the construction phase, and then in supporting local facilities. In delivering up to 28 dwellings, the appeal scheme would boost housing supply and choice. It would also make provision for affordable housing, albeit not at a policy compliant level. The provision of market and affordable housing would help with reducing the extent of the shortfall in the area, and these considerations are therefore ascribed moderate weight.
34. The other presented benefits associated with the proposed development, including the financial contributions towards the bridleways enhancements, travel plan and measures towards the Solent Coastal SPAs are essentially intended to mitigate the effect of the development. As some of these could of benefit to the wider public, I have nevertheless afforded them very limited weight.
35. Against that, the appeal scheme would fail to accord with the Council's adopted strategy for the location of new residential development, and would cause permanent and unacceptable harm to the character, appearance and function



of the area. These are considerations, to which I ascribe very significant weight.

36. The Framework seeks to promote sustainable forms of development, whilst protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside. Overall, the adverse impacts resulting from the proposal would significantly and demonstrably outweigh the benefits associated with the development, when assessed against the policies in this Framework taken as a whole. I find no reason to take a decision other than in accordance with the development plan. The appeal scheme does not constitute sustainable development.

### **Conclusion**

37. For the reasons detailed above, the appeal does not succeed.

*S Edwards*

INSPECTOR